

Socha, Julianne

From: Socha, Julianne
Sent: Monday, July 13, 2015 5:06 PM
To: 'Heacock, Dan'
Cc: Sofat, Sanjay; Keller, Al; Ireland, Scott; Kuefler, Patrick; Quigley, Heather
Subject: RE: Draft CAFO General Permit

Hi Dan,

Below are EPA's comments on the draft general permit for CAFOs which you shared with EPA on May 22, 2015. Please contact me with any questions you have or if you would like to schedule a time to discuss these comments.

Julianne

Julianne Socha | NPDES Programs Branch | Water Division | U.S. EPA | Region 5
77 W. Jackson Blvd., WN-16J | Chicago, IL 60604 | 312-886-4436
socha.julianne@epa.gov

1. 40 CFR 122.23(h) and 35 Ill. Adm. Code 502.310 require that CAFO owners or operators seeking authorization to discharge under a general permit must submit a notice of intent. The draft general permit includes several requires found in special conditions 1 and 15 related to permit applications, however, it is not clear if (1) new, first-time permit applicants need to submit an NOI; and (2) if existing permitted CAFOs need to submit updated Forms 1 and 2B with their NOI.
2. Special Condition 1, Notice of Intent, a: The list of minimum information to include with the NOI should include the latitude and longitude at the entrance to the production area.
3. Special Condition 1, Notice of Intent, e: In addition to the items listed in e.i. through e.vi., an existing permitted CAFO seeking to renew its permit authorization should provide updated information on the (1) total capacity of livestock waste containment and storage and (2) type of animals and whether animals are housed in open confinement or under roof.
4. Special Condition 1.e.ii.: Please define "livestock operation" and clarify what information the State is seeking when it asks for "size of the livestock operation".
5. Special Condition 3.a.: This condition provides that an overflow is allowed under this permit only when specific permit conditions that are listed are met. To be consistent with the federal rules in 40 CFR Part 412, special conditions 8.p. and 8.u. should be added to the list of specific permit conditions currently identified in 3.a.
6. Special Condition 3.c.: "Livestock waste application areas" is a term not defined in special condition 17 or in 35 Ill. Adm. Code Part 501. EPA recommends defining this term in special condition 17 or consider changing "livestock waste application areas" to "land application areas" in special condition 3.c.
7. Special Condition 3.h.: What condition in the permit provides that the State has the opportunity to review and approve the cover and pad or other control designs for temporary manure stacks?
8. Special Condition 3.k.: As discussed in #5 above, Special Conditions 8.p. and 8.u. should be added to the list a specific permit conditions currently identified in 3.k.

9. Special Condition 3.p.: It is not clear why the permittee is allowed up to 18 months to modify plans required by the permit to implement a wasteload allocation in an approved TMDL. Any authorization to discharge under the General Permit for CAFOs should be issued consistent with applicable allocations included in an approved TMDL. Please provide further information on how the State plans to incorporate approved WLAs into authorizations to discharge under the General Permit for CAFOs. Typically, Illinois EPA TMDLs include a wasteload allocation of zero for CAFOs. The TMDLs do not typically discuss the “flow regime” considered when establishing the wasteload allocation for CAFOs.
10. Special Condition 3.p.vi.: What are the criteria for the monitoring program that will be implemented to determine whether the nutrient management plan, CAFO discharge and storm water controls are adequate to meet the WLA in an approved TMDL? The specifics of this monitoring plan should be included in the permit issued to the CAFO.
11. Special Condition 3.q.xvii. and 3.q.xx.: Special condition 3.q.xvii. requires livestock waste to be incorporated on the day of application while 3.q.xx. does not provide a time period in which livestock waste must be incorporated. Other permit conditions require incorporation within 24 hours. What is the justification for the different time periods provided for incorporation? EPA recommends that special condition 3.q.xx. include a time period for incorporation.
12. Special Condition 3.q.xxiii.A.(i).3. and 3.q.xxiii.A.(ii).: Special condition 3.q.xxiii.A.(ii). requires that the storage volume calculation in 3.q.xxiii.A.(i).3. include specific factors, however, 3.q.xxiii.A.(i).3. does not include a requirement to calculate the storage volume it only requires that the permittee take steps to provide 120 days of storage sometime prior to December 1. Language should be added to make it clear that the permittee must calculate the storage volume and maintain a record of the calculation.
13. Special Condition 3.q.xxiii.A.(i).5.: What actions can the State take upon receiving notification that a CAFO has less than 120 days of storage available on December 1?
14. Special Condition 3.q.xxiii.B.vi.: Permittees must visually monitor for runoff if the CAFO surface land applies livestock waste on ice covered or snow covered land. Special Condition 8 of the permit should require that the visual monitoring be recorded and the records maintained in accordance with special condition 8.u.
15. Special Condition 7.b.: Livestock waste handling facilities are required to contain the precipitation and associated runoff from the 25-year 24-hour precipitation event. The word “and/or” used in this special condition should be changed to “and”.
16. Special Condition 7.k.: Although the federal rules do not define a specific time period for inspections of equipment used for land application of livestock waste, EPA encourages the states to define a time period appropriate within their state.
17. Special Conditions 8.b.iii. and 8.b.vii.: Please clarify why both of these conditions are necessary. Special condition 8.b.vii. is a more comprehensive requirement.
18. Special Condition 8.i.: The reference to special condition 4.e.xi. may be in error. Additionally, what permit condition requires the CAFO to determine expected crop yields?
19. Special Condition 9.a.ix.H.: The requirements for when to submit an updated nutrient management plan in the first and second sentence should be clarified. Any changes to the nutrient management plan, except for

calculations made in accordance with the linear and narrative approach calculations set forth at 40 CFR 122.42(e)(5)(i)(B) and 122.42(e)(5)(ii)(D), respectively, need to be submitted to the State. The second sentence as currently written can be interpreted that only substantial changes to the nutrient management plan need to be submitted to the State for approval pursuant to the special condition 16. Additionally, the State should make the final determination whether the changes are substantial. The permit should require the permittee to identify all changes to the nutrient management plan, including but not limited to substantial changes, however, the state should review and concur with any determination on whether a change is substantial.

20. Special Condition 17: The permit should include a definition of “animal confinement area” as found at 35 Ill. Adm. Code 501.223.
21. Special Condition 17: The permit should include a definition of “multi-year phosphorus application” as found at 40 CFR 412.4(b)(3).
22. The permit should include a statement that all terms not specifically defined in the permit are defined as set forth in 35 Ill. Adm. Code Part 501.
23. Is Attachment H the only attachment? The title page refers to “attachments”.
24. EPA and Illinois EPA have been working on template language for NPDES permits. EPA encourages the State to include any agreed upon language from this template language that is applicable to the General Permit for CAFOs in the next draft. Attachment H is the most likely section of the General Permit for CAFOs that may require incorporation of the template language.

From: Heacock, Dan [mailto:Dan.Heacock@Illinois.gov]
Sent: Friday, May 22, 2015 2:21 PM
To: Socha, Julianne; Pierard, Kevin
Cc: Sofat, Sanjay; Keller, Al
Subject: Draft CAFO General Permit

Julianne and Kevin:

Please find attached the draft general CAFO NPDES permit for your review and comments under the PPA.

Please let us know of your comments within 45 days.

If you wish to discuss the permit draft, please contact me.

Dan Heacock, P. E.
Manager, Facility Evaluation Unit
Permit Section
Division of Water Pollution Control
Bureau of Water
Illinois Environmental Protection Agency

Email address: <mailto:dan.heacock@illinois.gov>
Ph. No. 217/782-0610